In re: VASU PERSAUD; a/k/a ANTHONY PERSAUD; d/b/a PERSAUD ENTERPRISES, D&H SERVICES, B&H SERVICES, G&L WEST INDIAN GROCERY, VP TRADING, V PERSAUD IMPORTS, and other unnamed business.
P.Q. Docket No. 01-0020.
Decision and Order.
Filed July 11. 2002.

PQ – Default – Importation, prohibited – Fruit – Vegetables – Plant pests.

Margaret Burns, for Complainant.
Respondent, Pro se.
Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the movement of fruits and vegetables (7 C.F.R. § 319.56 *et seq.*), hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 *et seq.* And 380.1 *et seq.*

This proceeding was instituted under the Federal Plant Pest Act, as amended (7 U.S.C.§§ 150aa-150jj), the Plant Quarantine Act, as amended (7 U.S.C. §§ 151-154, 156-165 and 167) (Acts), and the regulations promulgated under the Acts, by a complaint filed on August 7, 2001, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the admission of the allegations in the complaint constitutes a waiver of hearing (7 C.F.R. § 1.139). Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.139).

Findings of Fact

1. Vasu Persaud, aka Anthony Persaud, dba Persaud Enterprises, D&H Services, B&H Services, G&L West Indian Grocery, VP Trading, V Persaud Imports, and other unnamed businesses, hereinafter referred to as respondent, is a business with a mailing address of 91-14 182nd Street, Hollis, NY 11432.

2. On or about June 5, 1997, respondent violated 7 C.F.R. § 319.56 of the regulations by importing in the United States, five boxes of prohibited fresh Genips,

from Guyana into JFK International Airport, New York, New York.

3.   On or about June 5, 1997, respondent violated 7 C.F.R. § 319.56 of the regulations by importing into the United States, two boxes of prohibited fresh Hyacinth Beans, from Guyana into JFK International Airport, New York, New York.

4.   On or about June 5, 1997, respondent violated 7 C.F.R. § 319.56 of the regulations by importing into the United States, on box of prohibited fresh Mangoes, from Guyana into JFK International Airport, New York, New York.

5.   On or about June 5, 1997, respondent violated 7 C.F.R. § 319.56 of the regulations by importing into the United States, on box of prohibited fresh Mammae-apples, from Guyana into JFK International Airport, New York, New York.

6.   On or about January 14, 2000, respondent violated 7 C.F.R. § 319.56-6(d) of the regulations by moving ten cartons fresh Long Beans imported from the Dominican Republic, from JFK International Airport, New York, New York, the port of firs arrival, without release by USDA.

7.   On or about January 14, 2000, respondent violated 7 C.F.R. § 319-56-6(e) of the regulations by failing to hold and fumigate ten cartons of fresh Long Beans imported from the Dominican Republic, into JFK International Airport, New York, New York, after a plant pest was found in the shipment.

8.   On or about January 14, 2000, respondent violated 7 C.F.R. § 330.200 of the regulations by knowingly moving from JFK International Airport, New York, New York, ten cartons of fresh Long Beans infested with plant pests imported from the Dominican Republic, into or through the United States without a permit for such movement of plant pests.

9.   On or about February 17, 2000, respondent violated 7 C.F.R. § 319.56-6(d) of the regulations by moving sixty-nice cartons of fresh Eggplants imported from the Dominican Republic, from JFK International Airport, New York, New York, the port of first arrival without release by USDA.

10.   On or about February 17, 2000, respondent violated 7 C.F.R. § 319.56-6(e) of the regulations by failing to hold and fumigate as prescribed sixty-nine cartons fresh Eggplants imported from the Dominican Republic, into JFK International Airport, New York, New York, after a plant pest was found in the shipment.

11.   On or about February 17, 2000, respondent violated 7 C.F.R. § 330.200 of the regulations by knowingly moving from JFK International Airport, New York, New York, sixty-nine cartons of fresh Eggplant infested with plant pests imported from Dominican Republic, into or through the United States, without a permit for such movement of plant pests.

12.   On or about March 2, 2000, respondent violated 7 C.F.R. § 319.56-6 (e) of the regulations by failing to move fifty cartons of fresh Long Squash imported from the Dominican Republic, from JFK International Airport, New York, New York, to an authorized site for treatment, as prescribed by the USDA after plant pests were found in the shipment.

13.   On or about March 2, 2000, respondent violated 7 C.F.R. § 330.200 of the regulations by knowingly moving from JFK International Airport, New York, New York, fifty cartons of fresh Long Squash infested with plan pests imported from the Dominican Republic into or through the United States without a permit for such movement of plant pests.

14.   On or about March 31, 2000, respondent violated 7 C.F.R. § 319.56-6(e) of the regulations by failing to move eighteen boxes of fresh Pigeon Peas imported from the Dominican Republic, from JFK International Airport, New York, New York to an authorized site for treatment, as prescribed by the USDA, after plant pests were found in the shipment.

15.   On or about March 31, 2000, respondent violated 7 C.F.R. § 300.200 of the regulations by knowingly moving from JFK International Airport, New York, New York, eighteen boxes of fresh Pigeon Peas infested with plant pests imported from the Dominican Republic, into or through the United States without a permit for such movement of plant pests.

16.   On or about April 6, 2000, respondent violated 7 C.F.R. § 319.56-6 (e) of the regulations by failing to move seventeen boxes of fresh Eggplant imported from the Dominican Republic from JFK International Airport, New York, New York, to an authorized site for treatment, as prescribed by the USDA, after plant pests were found in the shipment.

17.   On or about April 6, 2000, respondent violated 7 C.F.R. § 300.200 of the regulations by knowingly moving from JFK International Airport, New York, New York, seventeen boxes of fresh Eggplant infested with plant pests imported from the Dominican Republic, into or through the United States without a permit for such movement of plant pests.

Conclusions

By reason of the Findings of Fact set forth above, the respondent has violated Acts and the regulations issued under the Acts (7 C.F.R. § 319.56 *et seq.*). Therefore, the following Order is issued.

Order

The respondent is hereby assessed a civil penalty of seventeen thousand dollars

($17,000). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

> United States Department of Agriculture
> APHIS Field Servicing Office
> Accounting Section
> P.O. Box 3334
> Minneapolis, Minnesota 55403

Respondent shall indicate that payment is in reference to P.Q. Docket NO. 01-0020.

This Order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of Default Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.145).

[This Decision and Order became final September 10, 2002.-Editor]

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